IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

O.P.No. 34006 of 2001(W)

PETITIONERS:

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1. AKHILA KERALA VISWAKARMA MAHA SABHA, CHENGANNOOR, REPRESENTED BY ITS SECRETARY.

2. M.V.RAJAGOPALAN, GENERAL SECRETARY, AKVMS, CHENGANOOR.P.O, RESIDING AT MADAMPIL HOUSE, PATHANAMTHITTA.

3. N.P.SANKARANKUTTY, PRESIDENT AKVMS, RESIDING AT LAKSHMI SADANAM, PUTHUPADY.P.O., MOOVATTUPUZHA.

4. T.P.KUMARAN ACHARY, TREASURER, AKVMS, RESIDING AT JYOTHI BHAVAN VALLAMKULAM.P.O., THIRUVALLA.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN
SMT.V.SUJATHA

RESPONDENTS:

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1. THE GENERAL MANAGER, THE STATE BANK OF HYDERABAD.(H.O) GUNFOUNDRY, HYDERABAD-1.

2. THE MANAGER, STATE BANK OF HYDERABAD BRANCH CHENGANNOOR.P.O,

3. P.R.DEVADAS, FORMER PRESIDENT OF AKVMS RESIDING AT KAUSALYA BHAVAN, AYATHIL.P.O, KOLLAM.

4. K.N.SAHADEVAN, DESIGNATED AS TREASURER BY 3RD RESPONDENT, CHENGANOOR, NOW RESIDING AT KURUVIKKODU, POOVARANNI.P.O. PALA.

BY ADV. SRI.G.SHRIKUMAR
SMT.T.D.RAJALAKSHMI
SRI.E.R.VENKATESWARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF LETTER DTD 23.5.2001 SENT BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

EXT.P2: COPY OF LETTER DTD.28.5.2001 SENT BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

EXT.P3: COPY OF THE LETTER DTD.6.8.2001 SENT BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

EXT.P4: COPY OF THE LETTER DTD 28.7.2001 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P5: COPY OF THE LETTER DTD 10.8.2001 SENT BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

EXT.P6: COPY OF THE LETTER DTD 16.8.2001 SENT BY THE 2ND PETITIONER TO RESPONDENTS 3 AND 4.

EXT.P7: COPY OF LETTER DTD 20.9.2001 SENT BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

EXT.P8: COPY OF THE OBJECTION FILED BY 3RD RESPONDENT IN O.S.NO.125 OF 2001 OF MUNSIFF'S COURT, CHENGANNOOR.

EXT.P9: COPY OF THE ORDER DATED 4.12.2001 ISSUED BY NON-TRADING COMPANY REGISTAR.

EXT.P10:COPY OF THE ORDER DATED 18.2.2001 IN C.M.P.NO.7735 OF 2002 IN O.P.NO.4335 OF 2002 ON THE FILE OF THIS HON'BLE COURT.

RESPONDENTS EXHIBITS:

EXT.R1(a): COPY OF LETTER NO.612/2000 DATED 01/06/2000 ISSUED BY THE PETITIONER.

EXT.R1(b): COPY OF LETTER NO.612/2000 DATED 08/11/2000 ISSUED BY THE PETITIONER.

EXT.R1(c): COPY OF LETTER NO.22/2001 DATED 23/05/2001 ISSUED BY THE PETITIONER.

EXT.R1(d): COPY OF LETTER NO.42/2001 DATED 20/07/2001 ISSUED BY THE PETITIONER.

EXT.R1(e): COPY OF LETTER DATED 21/07/2001 ISSUED BY THE PETITIONER.

EXT.R1(f): COPIES OF LETTER DATED 16/08/2001 ISSUED BY THE 1ST RESPONDENT.

EXT.R1(g): COPIES OF LETTER DATED 16/08/2001 ISSUED BY THE 1ST RESPONDENT.

EXT.R3(a): COPY OF THE MINUTES OF MEETING OF EXTRAORDINARY GENERAL BODY MEETING OF AKHILAKERALA VISWAKARMA MAHA SABHA DATED.10.03.2001.

EXT.R3(a): COPY OF ORDER NO.I2.20453/01 DT.16.5.2006 PASSED BY THE REGISTRAR OF NON TRADING COMPANIES, KERALA.

EXT.R3(b): COPY OF ORDER NO.I.2/20453/01 DT.30.05.2006 PASSED BY THE REGISTRAR OF NON TRADING COMPANIES, KERALA.

TRUE COPY

P.A.TO JUDGE

ANTONY DOMINIC,J.

O.P. 34006/2001 (W)

Dated this the 14th day of February, 2007

JUDGMENT

The prayers in this writ petition are to direct the respondents 3 and 4 to re-deposit an amount of Rs.1,78,000/- into the account Nos. C & I, 89 and S.B.No.833, maintained at the 2nd respondent, Bank, which is stated to have been drawn without authority from the said bank. The petitioners are also seeking a declaration that respondents 1 and 2 have no authority to allow the respondents 3 and 4 for withdrawal of the amount.

2. On going through the pleadings and the reliefs sought in the writ petition, I am satisfied that this Court exercising the jurisdiction under article 226 of the Constitution of India cannot grant relief, especially in view of the disputed questions of fact that are involved. These are the reliefs which can be granted only in a regular civil suit and the decision has to be based on appreciation of the evidence to be adduced by the

respective parties.

3. In view of the above, the only course before this Court is to dismiss the petition without prejudice to the contentions of both sides.

The writ petition is accordingly dismissed.

ANTONY DOMINIC,
JUDGE

mrcs